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Clemson University

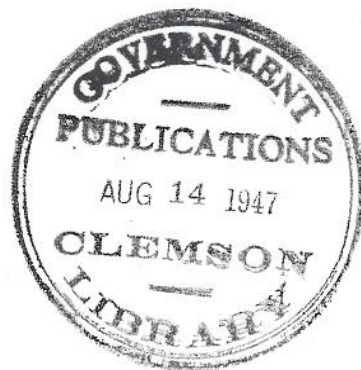


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Patents AT WORK

★ *A Statement of Policy by the
Alien Property Custodian of the
United States* ★ ★ ★ ★ ★ ★ ★ ★ ★ ★



Patents AT WORK

A Statement of Policy

January, 1943

THE ALIEN PROPERTY CUSTODIAN

★ OF THE UNITED STATES ★

OFFICE OF ALIEN PROPERTY CUSTODIAN
WASHINGTON

December 7, 1942

My dear Mr. President:

You have directed the Office of Alien Property Custodian to seize all patents controlled by the enemy, regardless of nominal ownership, and to make these patents freely available to American industry, first for war purposes of the United Nations, and second for general use in the national interest.

Today I can report satisfactory progress in this program. We have vested the bulk of the enemy patents and pending patent applications. We are now engaged in identifying and vesting the patents owned by nationals of enemy-occupied countries and the scattering enemy patents which require more detailed study. By December 31 of this year, every patent and patent application standing in the name of a national of an enemy or enemy-occupied country will have been vested, except for a few cases of disputed ownership requiring further investigation. We shall then control over 50,000 patents, representing some of the finest research achievements of modern science, particularly in the production of dyestuffs, plastics, pharmaceuticals, and electrical goods.

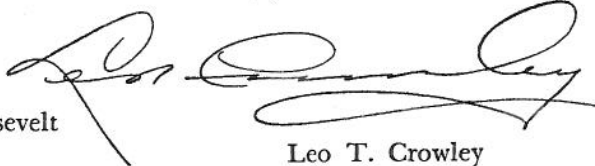
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From the beginning we have immediately seized every enemy patent recognized as of importance to the war and licensed it to American business. We will continue to do this. In addition, we are now ready to announce a general patent program in conformity with the policy you outlined to me: To make these patents readily and freely available forever to American industry, and to encourage the research necessary to develop these patents.

* * *

We are dedicating these patents to the service of American labor, American industry, and the consuming public. There are many opportunities here for the small business man to obtain the use of processes which will help him convert his plant to war production, and to establish a sound business in the post-war world. The permanent value of this program will depend to a large extent on the willingness and ability of American industry to put these patents to work and the diligence with which American brains and skill are used to improve and develop these inventions so that they will become vital forces in the new world.

Sincerely yours,



Leo T. Crowley
Alien Property Custodian

Honorable Franklin D. Roosevelt
The White House
Washington, D. C.

[The sections of this letter not reproduced above are
covered in greater detail in the text of "Patents at Work"]

PATENTS AT WORK ★ *A Statement of Policy*

THE ALIEN PROPERTY CUSTODIAN today controls the largest block of patents in the United States. They number in the tens of thousands. They cover inventions in every field of applied science and represent millions of man-hours of research and the expenditure of many millions of dollars. These inventions represent some of the finest foreign research achievements in modern science, particularly in the production of dyestuffs, plastics, pharmaceuticals, and electrical goods. Other important United States patents vested in the Alien Property Custodian include those relating to synthetic shellac manufacture, waterproofing of cloth, quick freezing of fruit juices, improved magnetic alloys, and processes for making rayon. Here are many patents covering processes which have given the Axis nations the ability to carry on mechanized

warfare for years while cut off from sufficient supplies of basic raw materials, from petroleum, rubber, certain non-ferrous and alloy metals, sugar, cotton, and wool.

Already, enterprising Americans have received licenses from the Alien Property Custodian and put to work patents formerly owned by the enemy. Such licenses relate to chemical warfare, mining machinery, hydraulic presses to stretch metal airplane parts, the production of sulphur from "sour gas" from oil wells, hoisting cranes, automatic textile-winding machinery, the manufacture of acetylene from natural gas, food processing, rust and corrosion inhibitors, the manufacture of phenol, and many other products and processes. We now have better goods than before; critical materials have been saved and manpower spared.

This booklet tells briefly the story of the seizure of these patents as a part of the work of the Office of Alien Property Custodian. It describes the policies which will govern the administration of these patent holdings by this agency of the Federal Government and it sets forth, for every business man in America to read, the simple procedures by which he may acquaint himself with these patents and obtain licenses to use them.

The Office of Alien Property Custodian

Acting under the authority of the Trading With the Enemy Act, as amended by the First War Powers Act of December 18, 1941, the President established the Office of Alien Property Custodian in March 1942 (Executive Order No. 9095 of March 11, 1942, as amended by Executive Order No. 9193 of July 6, 1942.) This Office is one of the emergency war agencies of our government and, like most of the others, it is organized within the Office for Emergency Management of the Executive Office of the President.

The Alien Property Custodian has the function of taking title to or controlling property in the United States which is owned or controlled by enemy nationals or, in certain cases, by non-enemy foreign nationals. Such property includes business enterprises of all kinds and sizes, real property, trusts, estates, ships, patents, copyrights, trademarks, and certain miscellaneous property. By direction of the President this Office is not taking action with respect to cash, bank deposits, and securities standing in the names of enemy or foreign nationals, where such holdings are not related to foreign-owned property

of other types. A "foreign national" as used here means, in brief, any person or organization domiciled in a foreign country, as well as a person or organization in the United States controlled by or acting on behalf of, or an organization owned by, such a foreign national. An "enemy national," similarly, means a national of a foreign country with which the United States is at war.

The Office of Alien Property Custodian takes title to or supervision over foreign or enemy property in order to prevent it from being useful to the enemy and in order to administer it in the interest of the United States.

The Patent Policy of the Alien Property Custodian

This booklet is concerned only with the patent policy of the Office of Alien Property Custodian.

Executive Order No. 9193 authorizes the Alien Property Custodian "to direct, manage, supervise, control or vest . . . any patent, patent application . . . or right related thereto in which any foreign country or national thereof has any interest." By delegation of Presidential authority under Section 5 (b) of the Trading With the Enemy Act, as amended by the

First War Powers Act, 1941, the Custodian is directed to hold, use, administer, or otherwise deal with vested (i.e., seized) patents "in the interest of and for the benefit of the United States."

This authority is now being exercised with respect to the patent rights of enemies and of the residents of enemy-occupied countries.

National policy clearly dictates that this Government should seize, and turn to the advantage of all its citizens, rights to the discoveries of our present enemies which have been protected in this country by patents issued by an agency of this Government. Accordingly, title to United States patents and patent applications owned by the enemy is being vested in the name of the United States Government. The pending patent applications which have been vested are being prosecuted so that patents may issue where the Patent Office allows claims and so that inventions which should be made available to the American people under the Alien Property Custodian's licensing program may not become the subject of patents issued to individuals. Vested patent applications are being published, thus making these inventions part of the common body of knowledge of the community, as well as assisting and encourag-

ing research along similar lines in this country. Licenses are granted for the life of the patents. No exclusive licenses will be issued. Thus the fund of knowledge controlled by the Alien Property Custodian can be set to work to destroy the military might of its creators and to help produce the material well-being which in post-war years will form a strong bulwark of the free world for which we now struggle.

In a quite different sense this Office has a great measure of responsibility toward the nationals of enemy-occupied countries, who are now unable to prosecute the patent applications they have pending, or to administer the patents which have been issued to them. In addition, there is the ever-present danger of transfer of title under duress. In order to prevent the enemy from making use of these patents, in order to safeguard, under this country's broader responsibilities, the rights of the unfortunate residents of occupied countries, and in order to make these inventions a working part of this nation's war machinery, title to these patents and applications is also being vested in the name of the United States Government; pending patent applications are likewise being prosecuted and published; and non-exclusive licenses are granted for the life of the patents. These sufferers from Axis aggression would not

have us do less than to turn their patent rights into an active weapon of warfare for the defeat of their oppressors.

As a basis for the administration of the patent program of this Office, extensive investigation has been made of foreign ownership of United States patents. As a first step, this Office listed all live patents which have ever stood in the name of a foreign national. In order to obtain information regarding the interests of Americans in these patents, the Alien Property Custodian on June 15, 1942, issued General Order No. 2 which, briefly summarized, required a report from every resident of the United States who claims an interest in any live patent in which there is, or has been, an interest of any foreign national, other than a national of the British Commonwealth of Nations, the American Republics or the Union of Soviet Socialist Republics. General Order No. 12 of November 17, 1942, required, in all cases where formal papers have not yet been filed with the Patent Office, the reporting of papers and correspondence relating to inventions received since January 1, 1939, by residents of the United States from nationals of enemy and enemy-occupied countries.

By December 31, 1942, title to every live patent and patent application owned by a national of an enemy or an

enemy-occupied country was vested in the United State Government, except for certain cases requiring further investigation. There already stand in the name of the Alien Property Custodian well over 25,000 patents formerly owned by enemy nationals and about 15,000 patents of nationals of enemy-occupied countries. In addition, this Office holds 5,500 patent applications representing the newest processes and discoveries. Continuing searches are made for patent rights which are controlled by enemies although ostensibly owned by citizens of Allied or neutral nations or even by citizens of the United States.

On July 6, 1942, Executive Order No. 9193 gave the Alien Property Custodian jurisdiction over patents in which any foreign national has an interest. Transactions relating to such patents remained subject to "freezing" control under Executive Order No. 8389 of April 10, 1940, as amended, until the Alien Property Custodian established a complete system of control over such transactions, by General Order No. 11 of November 17, 1942, and the regulations issued under it. Through these controls this Office is keeping currently informed concerning the many thousands of United States patents issued to residents of all foreign countries. No foreign-owned patent will be permitted to restrict war production.

New Responsibilities of Government and Business

The wise utilization of the patents which are now held by the Federal Government imposes huge responsibilities both on the Alien Property Custodian and on American business.

For our part we pledge, first, that the patents directly controlled by this agency of Government will be available readily and immediately to serve all American industry, and that active use of the store of technical knowledge which these patents represent will be fostered; second, we pledge that we shall encourage further research on these inventions for the lasting benefit of American industry, American labor, and the consuming public; and third, we shall take all steps within our power to make certain that vested enemy patents are made available forever to American industry.

In carrying out our first responsibility we have immediately seized every enemy or enemy-controlled patent which has been called to our attention as necessary to the war program and have licensed it without delay to American industry. We shall continue to do this where, for any reason, the patent is not already vested. Every manufacturer who comes to us for

a license under any enemy or enemy-controlled patent which is essential for war production can be assured that he will be licensed within a few days.

Each vested patent and patent application has been listed by title under the standard Patent Office classifications of patents. These lists are now ready for distribution, available to all upon payment of a small fee to cover costs of printing. They will reveal many valuable processes which can be effectively used in this country. We ask every American businessman to study the index of patent classifications which is enclosed in this booklet, to write for those classes in which he is interested, and to write at once for assistance if he does not find listed the processes or products which concern him. Explicit directions for obtaining the classified lists are given on page 24 of this booklet. All inquiries will be answered fully and promptly.

We shall make careful investigations to discover the major possibilities of the important inventions and we shall offer expert technical assistance to American business to help in bringing these patents into effective use.

To put these patents to work, this Office has established a simple yet comprehensive licensing policy. That policy is outlined in this booklet.

To carry out our second responsibility we shall cooperate with American industry to see that adequate research on the inventions disclosed in these patents is undertaken in industrial laboratories and in the research laboratories of universities, endowed foundations, and the Government. Full information concerning these patent holdings and the patent policy of this Office is being circulated widely among research centers, universities, technical, professional and learned societies, trade journals and newspapers.

Our third responsibility is undertaken on the specific instruction of the President. We shall refuse to sell or to release title to the enemy patents. The inventions covered by these patents will be made a permanent possession of the American people and, through freely granted licenses, they will be incorporated in our national industrial machinery. The ultimate disposition of the patents vested from nationals of enemy-occupied countries will be the subject of discussion with the governments in exile.

The responsibilities of American business with respect to the vested patents are as great as those of the Alien Property Custodian. This Government holds these patents for the use of the people of the United States. It is the task of business to

realize their full potentialities by employing these inventions in every appropriate phase of war production and by developing them to aid in building a sound post-war economy. Many of these inventions, which were developed in the important centers of scientific research now controlled by our enemies, have great economic value. This is particularly true of the pending patent applications which represent the latest research, kept secret until now. Patents vested in the Alien Property Custodian cover important recent developments of well-known foreign corporations, for example: the electrical ignition systems of Robert Bosch; the automobile motor inventions of Daimler-Benz, Fiat, Marelli; the chemical products of Montecatini, Kuhlmann, Norsk-Hydro; the armaments of Schneider et Cie and Skoda; the alloys and metallurgical equipment of Societe General Metallurgique de Hoboken and the electrical equipment of Kwaisha Toden Denkyu Kabushiki. American industry must not permit this fund of knowledge to lie dormant.

American industry must also work for the constant improvement of these inventions. A thoroughly adequate research program must be carried out if full value is to be obtained from them. In quality, American industrial research is inferior to none. In quantity, it should be greatly expanded. By further

research based on these inventions, American business will be able to create improvements to increase production, now of the machines of war and in post-war years of the implements of peace. Original discoveries resulting from this research may, of course, obtain the protection of American patent laws.

Thus the Alien Property Custodian and American industry have been given a unique opportunity to put to use the inventions covered by thousands of vested patents to carry on war production and to aid in the conversion of plants from peacetime activities. Small manufacturers especially may find in the classified lists the solution to many of the problems that beset them today. An aim second only to the war objective is the development of the machinery, processes, and products covered by the vested patents to increase the output of industry and widen the range of commodities available for the use of all.

The Licensing Policy of the Alien Property Custodian

The patent licensing policy of the Alien Property Custodian has been designed to further two major objectives—the winning of the war and the permanent enlargement of our national production in the post-war period. As has been explained, this

policy distinguishes between patents of enemies and patents of non-enemies residing in enemy-occupied countries. It also necessarily distinguishes between patents with outstanding exclusive licenses to American concerns and those which are either not licensed or are licensed on a non-exclusive basis.

*Enemy patents and patent applications,
not exclusively licensed to American industry*

Where exclusive licenses are not already outstanding to American industry, the Office of Alien Property Custodian will issue licenses under vested enemy patents and patent applications in accordance with the following terms and conditions:

- a.* A license application fee of \$50 will be charged for each single patent, plus \$5 for each additional related patent to be covered in the same license. (These fees, payable at the time of filing an application for license, will be returned if for any reason the license is not granted.)
- b.* Licenses will be issued to any reputable American firm or individual.
- c.* Licenses will be non-exclusive and non-assignable.
- d.* Licenses will be royalty-free.
- e.* Licenses will be for the duration of the life of the patent.
- f.* Licensees must make annual reports to the Alien Property

Custodian covering the volume and value of production under licensed patents and the research work undertaken in conjunction with them.

g. Licenses will be revocable for failure to live up to the license agreement.

Where non-exclusive licenses are already outstanding to American concerns or individuals, others will be licensed, upon application, on the basis of the standard terms stated above. Upon request, the provisions of the outstanding non-exclusive licenses will be revised to conform to these terms.

*Non-enemy patents and patent applications,
not exclusively licensed to American industry*

Where exclusive licenses are not already outstanding to American industry, licenses under vested patents and patent applications formerly standing in the name of nationals of enemy-occupied countries will be issued on terms similar to those indicated for comparable enemy patents. The significant differences concern royalty payments and the treatment of existing non-exclusive licenses. The following terms and conditions will apply:

a. The license application fee will be charged as in the case of enemy patents.

- b.* Licenses will be issued to any reputable American firm or individual.
- c.* Licenses will be non-exclusive and non-assignable.
- d.* Where the patent is not already licensed, licenses will be royalty-free, but only for the duration of the war and six months thereafter. At the end of the emergency period, royalties which are reasonable on the basis of prevailing commercial practice will be charged. These post-war royalties may be determined at the time a license is issued and incorporated in the license, or the matter may be left for subsequent adjustment.
- e.* Licenses will be for the duration of the life of the patent.
- f.* Licensees must make annual reports as in the case of enemy patents.
- g.* Licenses will be revocable for failure to live up to the license agreement.

Where non-exclusive licenses are already outstanding to Americans under patents or patent applications vested from nationals of enemy-occupied countries, others will be licensed, upon application. Such new licenses will carry, for the life of the patent, the same royalty terms as the licenses already outstanding. All royalties will be collected by the Office of Alien Property Custodian.

Patents exclusively licensed

Subject to the over-riding consideration that nothing can be permitted to hinder the war effort, the licensing policy of this Office will not disturb *bona fide* American interests in vested enemy and non-enemy patents and patent applications.

The policy with respect to enemy patents and applications will be to allow an existing American exclusive licensee to retain his sole right to exploitation of the patent, unless the issuance of other licenses is agreed upon with the present licensee, or is determined to be necessary to the war effort. Existing royalty agreements under exclusive licenses will usually be maintained and the royalties due will be collected by this Office. The exclusive licensee under an enemy patent may elect to give up his exclusive rights and accept a non-exclusive royalty-free license on the standard terms stated above.

When an American holds an exclusive license under a vested patent or patent application formerly owned by a national of an enemy-occupied country, the license and existing royalty arrangements will usually be allowed to stand, and the royalties will be collected by this Office. When it is essential to the war effort, additional licenses will be issued.

If it appears that a broader use of an invention than is

possible under the provisions of an existing exclusive license is necessary for war production, this Office will issue additional licenses under any vested patent.

Restrictive provisions in existing licenses

Where provisions of outstanding licenses to American concerns restrict or curb production or use in an illegal manner or to the detriment of the war effort, decisive action will be taken, whether the licenses are exclusive or non-exclusive and whether the patent was vested from nationals of an enemy or enemy-occupied country. Cases are known of subtle invasion of our economic front through the use of patents as an instrument of economic warfare, where through such provisions our enemies have been able to impede war production. The fullest extent of Alien Property Custodian authority will be used to remove illegal obstructions to the full use of the patents under the jurisdiction of this Office. Where outstanding licenses contain restrictive provisions as to price, production, use, or market area to the detriment of the war effort of our nation, they will be revised. The free licensing policy of this Office is designed to prevent the use of patents or licenses under its jurisdiction to further any monopoly or cartel contrary to the national interest.

Protection afforded licensees

Licensees under vested patents and patent applications will have the full protection of the First War Powers Act, 1941. By delegation of Presidential authority, the Alien Property Custodian derives his licensing power from Section 301 of that Act, which is an amendment of Section 5 (b) of the Trading With the Enemy Act. This Section provides that no person shall be held liable in any court for anything done in good faith in reliance upon authority of the Act. To encourage the most orderly and the widest possible use of the inventions covered by vested patents, licensees will be defended by the Alien Property Custodian to the full extent of his legal power in any suits brought on behalf of former owners charging infringement of the patents which have been licensed to them by the Custodian.

Moreover, full and adequate procedure will be provided affording direct recourse to the Custodian for any persons, not enemy nationals, claiming ownership or interest in patents vested by this Office. It has been pointed out that the disposition of patents belonging to nationals of countries occupied by the enemy will be the subject of discussion between this Government and the governments in exile of these countries. If for any reason a patent has been vested in error and is re-

turned to its former owner, so far as is possible this Office will see to it that any licenses which have been issued will remain in force, and that the licensee will be protected against claims.

*Patents held by corporations supervised or
controlled by the Alien Property Custodian*

When the Alien Property Custodian vests or supervises corporations domiciled in the United States which have patent rights, a different patent and patent licensing policy will be followed by this Office. Patents held by the vested or supervised corporations will be administered by their managements along with their other assets in the legitimate interests of these corporations and of their American shareholders; these patents, however, will be administered in accordance with broad policies laid down by the Custodian. Patents will be licensed to others whenever the war effort, the national interest, or the corporation's interest indicate the desirability of such a policy. In addition, whenever feasible, patents not used by a corporation in the usual course of its business will be licensed to others on a non-exclusive, reasonable royalty basis for the life of such patents.

Inquiries concerning patents owned by corporations con-

trolled by the Alien Property Custodian should be addressed to the managements of these corporations. This Office is undertaking to assure that extensive searches are conducted in all such business enterprises to determine the nature and usefulness of their patent holdings. A further objective of this Office is to create, in those corporations which are not being liquidated, adequate research facilities for the continued development of the inventions and processes held, so that these enterprises will be able to stand on their own feet and to advance independently of their past relationships.

War and Post-War Usefulness of Vested Patents

By this licensing policy, this Government offers to the American people the vast fund of research represented by the patents vested under the President's War Powers. They are made available without the restrictions and substantial royalty costs which ordinarily accompany new inventions. The permanent value of this program will depend to the largest extent on the diligence and imagination of American industry in setting these inventions to work and in prosecuting further research.

Possession of these patent rights imposes a great responsibility on Government officials and private citizens alike to insure that the store of technical knowledge represented is used to the fullest extent possible: to build our military machine; to help defeat Axis economic warfare in the export markets of the world; and, after the war is won, to strengthen old industries and provide the basis for the growth of new in the building of the peace. In this way we shall strike powerful blows at the Axis with the very patents by which our enemies hoped to keep exclusive control of many manufacturing and scientific fields. We shall increase and strengthen the technological resources of America for that day when we turn again in a better world to the tasks of peace.



How to secure
INFORMATION *and* LICENSES
from the Alien Property Custodian

*How to obtain a LICENSE under
a patent controlled by the
Alien Property Custodian*

★ Consult enclosed index of titles of Patent Office classes. Select the classes in which you are interested.

★ Write to the Office of Alien Property Custodian, Chicago, Illinois, for the lists of vested patents and patent applications cataloged under the classes you select. Order by class number.

The classified lists are 10 cents for each numbered class, except Patent Office Classes 23, 74, 88, 95, 123, 178, 179, 250, and 260, which are 25 cents each. Complete catalog, without binders, is \$5.

Printed copies of vested patents and drawings and specifications of vested patent applications may be secured from the Commissioner of Patents, Washington, D. C., for 10 cents each.

★ Send to the Office of Alien Property Custodian, Washington, D. C., your letter of application for a license to use a vested patent. Enclose application fee of \$50, plus \$5 for each additional related patent to be covered in one license. Your money will be promptly refunded if no license is issued.

Prepare your letter according to instructions on opposite page of this booklet.

★ Write to the Office of Alien Property Custodian, Chicago, Illinois, for technical assistance regarding methods of using vested patents.

Instructions for preparing letter of application for a license

In applying for a license to use a vested patent or patent application, the following information concerning the nature of the business and the use to be made of the particular patents under a license agreement should be furnished to the Alien Property Custodian:

1 (a) Name and address; (b) nature of business; (c) legal form of business (corporation, partnership, sole proprietorship, etc.); (d) registered trade name, if any (for partnership and proprietorship business only); (e) if corporation, date and State of incorporation; (f) if partnership, date of formation; (g) name, citizenship and legal residence of proprietor, partners, officers and directors, as the case may be; (h) if a corporation, the percentage of voting stock owned by or for the benefit of non-citizens of the United States.

2 Identification by number and title of the specific patents or patent applications under which a license is sought.

3 Facilities, if any, for using the inventions sought to be licensed; e.g., actual equipment, technical skill and available or proposed capital.

4 The purpose for which the license is needed and its relation, if any, to the war effort.

5 A statement as to whether any existing licenses are known under the patents or patent applications which are involved in the request.

Letters of application should be sent, with license application fee, to the Office of Alien Property Custodian, Washington, D. C. Correspondence in regard to licensing negotiations may be handled directly by the applicant, or by his designated attorney if a power of attorney accompanies the letter of application.
